

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

ESTATE OF JOYCE ROSAMOND  
PETERSEN, deceased;

Plaintiff,

vs.

WILLIAM E. BITTERS, ROBERT W.  
BOLANDJR., and JOHN L. HENRY;

Defendants.

**8:16CV183**

**ORDER**

The trial of this case is scheduled to commence on July 10, 2018. The pretrial conference was held on June 26, 2018. (See Filing No. 224, audio file).

The parties did not present a draft of Controverted and Unresolved Issues consistent with this court's form, directives, and expectations. (See attached Exhibit A). Counsel were given until the close of business on June 26, 2018 to confer and re-submit that portion of the pretrial conference order. That deadline was extended to 5:00 p.m. on June 27, 2018.

At approximately 4:30 p.m. on June 27, 2018, the court was advised that despite their efforts, the parties' counsel were unable to draft a joint listing of Controverted and Unresolved Issues. Defense counsel forwarded a copy of what he believed the issues were. (See attached Exhibit B). Plaintiff's counsel disagrees, stating he is not certain what the court wants, and further stating he cannot re-draft the Controverted and Unresolved Issues section of the proposed pretrial conference order, his anticipated motions to reconsider the court's rulings on summary judgment and on Plaintiff's Filing 215 motion, the trial brief, and the jury instructions by the deadlines set by the court.

The undersigned magistrate judge has never encountered a situation where, by the time of the pretrial conference, the parties cannot jointly agree on what legal issues must be tried or resolved by the court. But in the interest of keeping this case on track for a July 10, 2018 trial, the court has created a listing of Controverted and Unresolved Issues. (See attached Exhibit C).

The formal pretrial conference order will not be entered without an acceptable Controverted and Unresolved Issues section. Since creating that section has been delayed, this written order will also re-affirm the deadlines set by my oral and recorded orders entered during the pretrial conference.

Accordingly,

IT IS ORDERED:

1) The parties shall review the court's draft of the Controverted and Unresolved Issues, (Exhibit C) and they shall file any objections to that draft on or before 12:00 p.m. (noon) on June 29, 2018, in the absence of which the court's draft will be summarily added<sup>1</sup> to the final pretrial conference order.

2) The deadline for filing any motions to reconsider the court's summary judgment ruling (Filing No. 221), or the ruling denying Plaintiff's motion for adverse inferences, sanctions, and to continue trial, (Filing No. 220), is June 29, 2018. Any response shall be filed on or before July 3, 2018. No reply shall be filed absent leave of the court for good cause shown.

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<sup>1</sup> The parties' original submission will not be deleted from the order. The court's draft is intended to supplement and to the extent needed, organize the parties' version.

- 3) Trial briefs shall be filed on or before Monday, July 2, 2018.
- 4) Proposed jury instructions shall be filed on or before Thursday July 5, 2018.

June 28, 2018.

BY THE COURT:

s/ Cheryl R. Zwart  
United States Magistrate Judge